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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,761	12/31/2001	William G. Reeves	11710-0300 (44043-263112)	6298
23370	7590	06-02/2004	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			KUHN, ALLAN R	
			ART UNIT	PAPER NUMBER
			1732	
DATE MAILED: 06/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/038,761

Applicant(s)

REEVES ET AL.

Examiner

Allan Kuhns

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 12-30, 32-46, 48 and 50-55 is/are rejected.
- 7) ☒ Claim(s) 4, 10, 11, 31, 47 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/17, 9/23/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2.Claims 1-3, 5-9, 12-30, 32-46, 48 and 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (6,261,679) in view of Chen (4,999,149). Chen et al. disclose or suggest (at column 11, line 60 to column 12, line 5), for only a few embodiments, the basic claimed method for producing a carbohydrate foam composition including mixing the carbohydrate with an aqueous solution to at least partially dissolve the carbohydrate and introducing a gas into the resulting mixture to form a foam. Chen et al. appear not to teach the aspect of pre-wetting the carbohydrate with a pre-wetting agent, but such is taught by Chen at column 5, lines 3-10. It would have been obvious to one of ordinary skill in the art to incorporate this teaching of Chen into the method of Chen et al. in order to facilitate the formation of a homogeneous carbohydrate/ aqueous solution.

Chen teaches the use of water as the pre-wetting agent (column 5, line 4), as in claims 2 and 32. Chen et al. teach or suggest the use of cellulose, as in claims 3, 30 and 46, and the use of zinc chloride or adding a salt, as in claims 9, 12, 33, and 48. Chen teaches heating, as in claims 5-8, and appropriate temperatures would have been readily determined through routine experimentation by one of ordinary skill in the art as part of process optimization. Chen et al. teach the use of a surfactant (column 11, line 53), as in claim 14, and the use of air (column 12, line 1), as in claim 15, 16 and 43.

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The examiner takes Official Notice that regeneration and drying steps, as in claims 19-20, 25-26, 29, 35 41-42, 45 and 51-54 are known in the art of foamed carbohydrate or foamed cellulose manufacture.

3. The examiner notes the use of improper Markush language (should be "selected from the group consisting of") in claims 3-4, 15, 31, 38 and 46-47.

4. Claims 4, 10, 31, 47 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicants' arguments filed March 17, 2004 have been fully considered but they are not persuasive. Applicants' arguments are considered to be moot by the examiner based on the revised ground of rejection introduced in this Office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Allan R. Kuhns*

ALLAN R. KUHNS  
PRIMARY EXAMINER AU 1732

5-28-04